IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

WP(C).No. 34986 of 2007(M)

AGAINST THE ORDER IN EP 89/2001. IN
OS.1157/1987 of SUB COURT, MUVATTUPUZHA

.....

PETITIONERS:

---

1. SHRI.K.J.JOSEPH, AGED 52, S/O.JOSEPH, KUNNASSERIYIL HOUSE, THIRUVAMPADY P.O., NECHOOR, KOTTAYAM.

2. JESSY SIMON, W/O.K.J.JOSEPH, KUNNASSERIYIL HOUSE, THIRUVAMPADY P.O., NECHOOR, KOTTAYAM.

BY ADV. SRI.PRAVEEN K. JOY
SRI.R.ARUN (PALLURUTHY)

RESPONDENT:

THE MANAGER, CATHOLIC SYRIAN BANK LTD., KADUTHURUTHY BRANCH, KOTTAYAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

==========

W.P(C).No.34986 of 2007

==========

Dated this the 27th day of November, 2007.

JUDGMENT

This Writ Petition is preferred against the order of the Subordinate Judge, Muvattupuzha whereby the court has refused to allow an application under Order 21 Rule 83 of C.P.C. Order 21 Rule 83 of C.P.C. is enacted in the Code for persons with bonafides and for persons who really want to wipe off the liability by private sale of the property. Here is a case where the suit is of the year 1987 and the decree holder is still in the verandha of the court for realising the amount due under the decree. The sale was conducted. Subsequently it was set aside and a fresh sale is now ordered and it is at that stage, an application under Order 21 Rule 83 of C.P.C. is coming up on the ground that private sale may be granted.

2. I do not find any bonafides in such prayers and the only intention is to prolong the matter, which has been rightly declined by the court below and I refuse jurisdiction and the Writ Petition is dismissed.

M.N.Krishnan,
Judge.

ess 27/11